

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** June 9, 2005

**To:** The Commission  
(Meeting of June 16, 2005)

**From:** Delaney L. Hunter, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject: SJR 13 (Escutia) Railroad safety.**  
As Introduced May 12, 2005

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION:** Support

**SUMMARY:** SJR 13 would urge the President and the Congress of the United States to amend the Federal Railroad Safety Act (FRSA) to allow state and local regulation, so long as the state or local regulation does not conflict with federal law, nor impose an unreasonable burden on interstate commerce.

**DIVISIONAL ANALYSIS:** SJR 13 would urge the President and Congress to amend the FRSA to allow California to adopt regulations that provide greater protections from derailments, hazardous material spills, and crossing accidents so long as California adheres with federal law. Further, SJR 13 urges the Federal Railroad Administration to work with California and the railroads by increasing their staff and funding, and delegating authority to our commission to create and enforce standards relative to railway track, railroad operations and equipment that will help prevent and reduce the severity of accidents, derailments and hazardous material spills.

Support of this Joint Resolution fulfills an item contained in the Rail Safety Action Plan as adopted by the Commission in April of this year. The Action Plan stated:

*Solicit a Joint Legislative Resolution from the California Legislature to support amendments to the Federal Railroad Safety Act (FRSA) to allow states like California the ability to designate Local Safety Hazard (LSH) sites and regulate railroad safety locally, and to assess financial penalties when the lives of citizens, the environment or local security is threatened;*

## **LEGISLATIVE HISTORY**

None

## **STATUS:**

SJR 13 will be heard in the Senate Energy, Utilities, & Communications Committee on June 21, 2005

## **SUPPORT/OPPOSITION**

### Support:

None on file.

### Opposition:

None on file.

## **STAFF CONTACTS:**

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**Date:** June 9, 2005

BILL NUMBER: SJR 13      INTRODUCED  
BILL TEXT

INTRODUCED BY    Senators Escutia, Ducheny, Simitian, and Soto  
(Coauthors: Assembly Members Huff and Nunez)

MAY 12, 2005

Relative to railroad safety.

LEGISLATIVE COUNSEL'S DIGEST

SJR 13, as introduced, Escutia. Railroad Safety

This measure would urge the President and the Congress of the United States to amend the Federal Railroad Safety Act to allow state and local regulation, so long as the state or local regulation does not conflict with federal law, nor impose an unreasonable burden on interstate commerce.

Fiscal committee: no.

WHEREAS, The transportation of freight and passengers by railroad has been an integral part of California's economic infrastructure for nearly 150 years, and remains central to a vibrant economy that Californians hope to continue to enjoy in the 21st century; and

WHEREAS, The regulation of railroad operations is a major objective of California government in order to ensure and promote the health and safety of California's communities and its residents; and

WHEREAS, There has been a significant increase in the past 10 years in the number of derailments and accidents on California railways, resulting in injuries, death, and damage within communities where railways exist, and leading to growing attention and concern throughout the country; and

WHEREAS, The Federal Railroad Safety Act, was intended to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents, and has sharply restricted the authority of California and the other states to address rail safety issues, through a broad preemption of state laws; and

WHEREAS, The Federal Railroad Safety Act nevertheless was intended to provide for cooperative state and federal activity to prevent accidents and reduce their severity when they do occur, including allowing states to act where federal officials have not, providing concurrent state safety jurisdiction over railroads at essentially local safety hazards within states, and authorizing delegations of authority to state officials by the Federal Railway Administration; and

WHEREAS, Federal courts have consistently failed to find local safety hazards that would permit California to effectively regulate railway safety so as to anticipate and prevent accidents; and

WHEREAS, The Federal Railroad Administration has failed to institute the necessary rulemakings to develop safety regulations that fully protect California's communities and their residents from railroad derailments, hazardous materials spills, and highway-rail crossing accidents that result in injuries, death, and damage within communities where railways exist; and where the Federal Railroad Administration has exercised jurisdiction, it has precluded states from providing the public with greater safety protections and from reducing the number and severity of railroad derailments, hazardous material spills, and highway-rail crossing accidents within their jurisdictions; and

WHEREAS, The federal government has failed to develop comprehensive plans to protect the public health and safety and to effectively fund railway safety programs; and

WHEREAS, California has a history of working with the Federal Railroad Administration in coordinating inspections, and has established and funded extensive railway safety programs; and

WHEREAS, There now exists a clear need to amend federal law in order to empower California officials to protect the public health and safety and to continue to build on the cooperation between California and federal rail safety officials; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California urges the President and the Congress of the United States to amend the Federal Railroad Safety Act to increase the authority of state and local governments to enact railroad safety regulations providing greater protection for their residents from railroad derailments, hazardous materials spills, and highway-rail crossing accidents, so long as the state enactments, rules, or regulations do not conflict with federal law and do not impose an unreasonable burden on interstate commerce; and be it further

Resolved, That the Federal Railroad Administration is urged to work cooperatively with California and the railroad corporations by increasing its staff and funding, and by delegating additional authority to California officials to promulgate and enforce standards relating to railway track, operations, and equipment that will prevent and reduce the severity of accidents, derailments, and hazardous material spills; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, and to each Senator and Representative from California in the Congress of the United States.